

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 435 – HB 722

February 22, 2023

SUMMARY OF BILL: Enhances the penalty for voluntary manslaughter, from a Class C felony to a Class B felony. Enhances the penalty for criminally negligent homicide, from a Class E felony to a Class D felony. Enhances the penalty for reckless homicide, from a Class D felony to a Class C felony.

FISCAL IMPACT:

Increase State Expenditures – Net Impact – \$57,100 Incarceration

Assumptions:

Voluntary Manslaughter:

- Pursuant to Tenn. Code Ann. § 39-13-211(a), a person commits voluntary manslaughter by intentionally or knowingly killing another in a state of passion produced by adequate provocation sufficient to lead a reasonable person to act in an irrational manner.
- Pursuant to Tenn. Code Ann. § 39-13-211(b), voluntary manslaughter is a Class C felony offense. Pursuant to Tenn. Code Ann. § 40-35-501(cc), as amended by Public Chapter 988 of 2022, a person convicted of voluntary manslaughter on or after July 1, 2022 is required to serve 100 percent of the sentence imposed, provided that earned credits may reduce the sentence imposed by up to 15 percent.
- The proposed language enhances the penalty for voluntary manslaughter, from a Class C felony to a Class B felony.
- Based on information previously provided by Department of Correction (DOC), there has been an average of 40.7 admissions per year for voluntary manslaughter over the last 10 years.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.96 percent per year (from 2018 to 2021).
- The average sentence for a Class C felony offense of voluntary manslaughter is 8.99 years. Therefore, it is assumed that a person convicted of voluntary manslaughter under current law would serve 7.64 years ($8.99 \times 85\%$). Adjusting for pre-trial jail credits, the average time served is 7.14 years.
- The average sentence for a Class B felony is 9.43 years. This analysis assumes individuals convicted of a Class B felony offense of voluntary manslaughter will serve 8.01 years [$9.43 \times 85\%$] under the proposed legislation.
- Accounting for recidivism rates, the proposed legislation will result in 27.61 admissions annually serving an additional 0.21 years ($7.35 - 7.14$).

- The weighted average operational costs per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The estimated decrease in incarceration costs is estimated to be the following over the next three-year period:

Decrease in State Expenditures	
Amount	Fiscal Year
\$ (300)	FY23-24
\$ (500)	FY24-25
\$ (1,000)	FY25-26

- The proposed enhancement from a Class C felony to a Class B felony is resulting in decreased incarceration costs due to two factors: (1) the average operational costs per inmate per day are estimated to be lower for inmates housed at state facilities (\$50.63) than for inmates housed at local facilities (\$52.11); and (2) a higher percentage of inmates convicted of a Class B felony (83.59 percent) are housed in state facilities relative to inmates convicted of a Class C felony of voluntary manslaughter (81.82 percent).

Criminally Negligent Homicide:

- Pursuant to Tenn. Code Ann. § 39-13-212(a), a person commits criminally negligent homicide by engaging in criminally negligent conduct that results in death.
- Pursuant to Tenn. Code Ann. § 39-13-212(b), criminally negligent homicide is a Class E felony offense. Pursuant to Tenn. Code Ann. § 40-35-501(cc), as amended by Public Chapter 988 of 2022, a person convicted of criminally negligent homicide on or after July 1, 2022 is required to serve 100 percent of the sentence imposed, provided that earned credits may reduce the sentence imposed by up to 15 percent.
- The proposed language enhances the penalty for criminally negligent homicide, from a Class E felony to a Class D felony.
- Based on information previously provided by DOC, there has been an average of 4.6 admissions per year for criminally negligent homicide over the last 10 years.
- The average sentence for a Class E felony offense of criminally negligent homicide is 2.29 years.
- It is assumed that a person convicted of criminally negligent homicide under current law would serve 1.94 years ($2.29 \times 85\%$). Adjusting for pre-trial jail credits, the average time served is 1.69 years.
- The average sentence for a Class D felony is 3.45 years. This analysis assumes individuals convicted of a Class D felony offense of criminally negligent homicide will serve 2.93 years [$3.45 \times 85\%$] under the proposed legislation. Adjusting for pre-trial jail credits, the average time served is 2.63 years.
- Accounting for recidivism rates, the proposed legislation will result in 3.12 admissions annually serving an additional 0.94 years ($2.63 - 1.69$).
- The weighted average operational costs per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.

- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 400	FY23-24
\$ 18,800	FY24-25
\$ 55,300	FY25-26

Reckless Homicide:

- Pursuant to Tenn. Code Ann. § 39-13-215(a), reckless homicide is the reckless killing of another.
- Pursuant to Tenn. Code Ann. § 39-13-215(b), reckless homicide is a Class D felony offense. Pursuant to Tenn. Code Ann. § 40-35-501(cc), as amended by Public Chapter 988 of 2022, a person convicted of reckless homicide on or after July 1, 2022 is required to serve 100 percent of the sentence imposed, provided that earned credits may reduce the sentence imposed by up to 15 percent.
- The proposed language enhances the penalty for reckless homicide, from a Class D felony to a Class C felony.
- Based on information previously provided by DOC, there has been an average of 9.3 admissions per year for reckless homicide over the last 10 years.
- The average sentence for a Class D felony offense of reckless homicide is 4.57 years.
- It is assumed that a person convicted of reckless homicide under current law would serve 3.88 years ($4.57 \times 85\%$). Adjusting for pre-trial jail credits, the average time served is 3.58 years.
- The average sentence for a Class C felony is 5.16 years. This analysis assumes individuals convicted of a Class C felony offense of reckless homicide will serve 4.38 years [$5.16 \times 85\%$] under the proposed legislation. Adjusting for pre-trial jail credits, the average time served is 3.88 years.
- Accounting for recidivism rates, the proposed legislation will result in 6.31 admissions annually serving an additional 0.3 years ($3.88 - 3.58$).
- The weighted average operational costs per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 900	FY23-24
\$ 1,800	FY24-25
\$ 2,800	FY25-26

- Pursuant to Public Chapter 1007 of 2022, costs that include both increases and decreases are to be netted out on an annual basis for the next three fiscal years, with the cost increases based on the highest of the next three fiscal years and cost decreases based on actual estimated decreases for each of the three fiscal years; therefore, the recurring net increase in incarceration costs will be the following over the next three-year period:

Net Increase in State Expenditures	
Amount	Fiscal Year
\$ 1,000	FY23-24
\$ 20,100	FY24-25
\$ 57,100	FY25-26

- The recurring net increase in incarceration costs based on the highest of the next three fiscal years is \$57,100.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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